



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,266	06/07/2001	John Brassil	1509-185	4601

22429 7590 05/04/2004

LOWE HAUPTMAN GILMAN AND BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300 /310
ALEXANDRIA, VA 22314

EXAMINER

ELAHEE, MD S

ART UNIT	PAPER NUMBER
2645	6

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/875,266

Applicant(s)

BRASSIL ET AL.

Examiner

Md S Elahee

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Arguments

1. The Applicant argues on page 2, lines 1-3 that Lanzaro et al. U.S. Publication No. 2002/0000470, relied on to reject all claims, was filed June 30, 2001, approximately three weeks after the June 7, 2001, filing date of the present application. The examiner disagrees with this argument. Lanzaro et al. U.S. Publication No. 2002/0000470, relied on to reject all claims, was filed January 30, 2001.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lanzaro et al. (U.S. Pub. No. 2002/0000470) and in view of Kumar et al. (U.S. Pub. No. 2002/0143634).

Regarding claim 1, Lanzaro teaches forming a coordinated short-range wireless network using the portable data collection device (i.e., first communications device) and at least one data transmitting unit (i.e., second communications device) of a similar type (fig.1; page 2, paragraph 0023, page 3, paragraphs 0041, page 4, paragraphs 0043).

Lanzaro further teaches initiating communication between the portable data collection device (i.e., first communications device) and the at least one data transmitting unit (i.e., second communications device) to establish whether or not the at least one data transmitting unit has

Art Unit: 2645

data required by the portable data collection device (fig.1; page 3, paragraphs 0041, page 4, paragraphs 0043).

Lanzaro fails to teach “the first communications device communicating, upon the first communications device receiving confirmation that a second communications device has the required data, with a service provider using its first transceiver to request permission for the transfer of the required data from said second communications device to the first communications device”. Kumar teaches that the customer portable telephone (i.e., first communications device) communicating, upon the customer portable telephone receiving confirmation that a POS device (i.e., second communications device) has the required data, with a WPS server (i.e., service provider) using its first transceiver to request permission for the transfer of the required data from the POS device to the customer portable telephone (fig.1; page 2, paragraph 0027, page 3, paragraphs 0030-0034). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro to allow the first communications device communicating, upon the first communications device receiving confirmation that a second communications device has the required data, with a service provider using its first transceiver to request permission for the transfer of the required data from the second communications device to the first communications device as taught by Kumar. The motivation for the modification is to have doing so in order to provide the required transaction data to the customer.

Lanzaro further fails to teach “transferring the required data from said second communications device to the first communications device following transmission by the service provider to the first communications device of authorisation”. Kumar further teaches transferring

Art Unit: 2645

the required data from the POS device (i.e., second communications device) to the customer portable telephone (i.e., first communications device) following transmission by the WPS server (i.e., service provider) to the customer portable telephone of authorisation (fig.1, fig.3A; page 3, paragraphs 0030-0032, page 4, paragraph 0045). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro to allow transferring the required data from the second communications device to the first communications device following transmission by the service provider to the first communications device of authorisation as taught by Kumar. The motivation for the modification is to have doing so in order to provide the required transaction data to the authorized customer.

Regarding claim 2, Lanzaro fails to teach “the service provider transmits provisional permission, together with a costing, to the first transceiver of the first communications device”. Kumar teaches that the WPS server (i.e., service provider) transmits provisional permission, together with a costing, to the customer portable telephone (i.e., first transceiver of the first communications device) (fig.1, fig.2, fig.3A; page 3, paragraphs 0030-0032, page 4, paragraphs 0036, 0045). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro to allow the service provider transmitting provisional permission, together with a costing, to the first transceiver of the first communications device as taught by Kumar. The motivation for the modification is to have doing so in order to provide the permission for the required transaction to the customer.

Regarding claim 3, Lanzaro fails to teach “the first communications device transmitting a message accepting the costing to the service provider using its first transceiver”. Kumar teaches

Art Unit: 2645

that the customer portable telephone (i.e., first communications device) transmitting a message accepting the costing to the WPS server (i.e., service provider) using its first transceiver (fig.2; page 4, paragraph 0036). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro to allow the first communications device transmitting a message accepting the costing to the service provider using its first transceiver as taught by Kumar. The motivation for the modification is to have doing so in order to provide the acceptance of the price of the products to the service provider.

Regarding claim 4, Lanzaro fails to teach “the service provider issuing an authorisation once acceptance of the costing has been received from the first communications device”. Kumar teaches that the WPS server (i.e., service provider) issuing an authorisation once acceptance of the costing has been received from the customer portable telephone (i.e., first communications device) (fig.2; page 4, paragraphs 0036-0041). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro to allow the service provider issuing an authorisation once acceptance of the costing has been received from the first communications device as taught by Kumar. The motivation for the modification is to have doing so in order to authorize the customer for the required transaction.

Regarding claim 5, Lanzaro fails to teach “the service provider communicating said costing to a network service provider of the first communications device”. Kumar teaches that the WPS server (i.e., service provider) communicating the costing to a network service provider of the customer portable telephone (i.e., first communications device) (fig.1, fig.2, fig.3A; page 3, paragraphs 0030-0032, page 4, paragraphs 0036, 0045). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro to allow the

Art Unit: 2645

service provider communicating the costing to a network service provider of the first communications device as taught by Kumar. The motivation for the modification is to have doing so in order to provide the information of the required transaction to the customer.

4. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lanzaro et al. (U.S. Pub. No. 2002/0000470) and in view of Kumar et al. (U.S. Pub. No. 2002/0143634) and further in view of Ramachandran et al. (U.S. Pub. No. 2001/0044747).

Regarding claims 6 and 7, Lanzaro fails to teach “the second transceiver of the first communications device communicates, once the authorisation has been received, with said second communications device to inform that device that authorisation has been received”. Kumar teaches that the customer portable telephone (i.e., second transceiver of the first communications device) communicates, once the authorisation has been received, with the second communications device to inform that device that authorisation has been received (fig.2; page 4, paragraphs 0036-0041). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro to allow the second transceiver of the first communications device communicating, once the authorisation has been received, with the second communications device to inform that device that authorisation has been received as taught by Kumar. The motivation for the modification is to have doing so in order to provide the reception information of authorisation for the required transaction to the customer.

However, Lanzaro in view of Kumar fails to teach “request downloading of the required data”. Ramachandran teaches to request downloading of the mp3 sound files (i.e., required data) (fig.2; page 4, paragraphs 0044, 0050, page 5, paragraph 0059). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro

Art Unit: 2645

in view of Kumar to request downloading of the required data as taught by Ramachandran. The motivation for the modification is to have doing so in order to download the sound files.

5. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lanzaro et al. (U.S. Pub. No. 2002/0000470) and in view of Kumar et al. (U.S. Pub. No. 2002/0143634) and further in view of Hitchings, Jr. (U.S. Patent No. 6,594,484).

Regarding claim 8, Lanzaro in view of Kumar fails to teach “inputting a list of required data files into a memory provided in the first communications device”. Hitchings teaches inputting a list of scripts (i.e., required data files) into a memory provided in the wireless client device (i.e., first communications device) (col.2, lines 62-67, col.3, lines 1-8). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro in view of Kumar to allow inputting a list of required data files into a memory provided in the first communications device as taught by Hitchings. The motivation for the modification is to have doing so in order to produce the user input interactions with an information access system.

Regarding claim 9, Lanzaro teaches initiating communication by the portable data collection device (i.e., second receiver of the first communications device) to the at least one data transmitting unit (i.e., second communications device) within the short-range wireless network (abstract; fig.1; page 3, paragraphs 0041, page 4, paragraphs 0043).

However, Lanzaro in view of Kumar fails to teach “the list of required data files is communicated by the second transceiver of the first communications device”. Hitchings teaches the list of scripts (i.e., required data files) is communicated by the wireless client device (i.e., second transceiver of first communications device) (col.2, lines 62-67, col.3, lines 1-8). Thus, it

Art Unit: 2645

would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro in view of Kumar to allow the list of required data files being communicated by the second transceiver of the first communications device as taught by Hitchings. The motivation for the modification is to have doing so in order to make interactions with an information access system.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tayama (U.S. Patent No. 6,625,580) and in view of Lanzaro et al. (U.S. Pub. No. 2002/0000470).

Regarding claim 10, Tayama teaches inputting details of an intended purchase into a memory provided in the goods input device (i.e., first communications device) (abstract; fig.1; col.3, lines 41-67, col.4, lines 1-24, 52-61, col.6, lines 63-67, col.7, lines 1-15).

Tayama further teaches transmitting details of the intended purchase, using the goods input device (i.e., second transceiver of the first communications device), to any similar goods indicator (i.e., transceiver) being associated with a respective supplier (abstract; fig.1, fig.2; col.3, lines 41-67, col.4, lines 1-24, 52-61, col.6, lines 63-67, col.7, lines 1-15).

Tayama fails to teach transmitting details of the intended purchase, using the second transceiver of the first communications device, to any similar, in-range transceiver which communicates at the second, higher data rate over a short range. Lanzaro teaches transmitting data (i.e., details of the intended purchase), using the portable data collection device (i.e., second transceiver of the first communications device), to any similar, in-range data transmitting unit (i.e., transceiver) which communicates at the second, higher data rate over a short range (fig.1; page 2, paragraph 0023, page 3, paragraphs 0041, page 4, paragraphs 0043). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify

Art Unit: 2645

Tayama to allow transmitting details of the intended purchase, using the second transceiver of the first communications device, to any similar, in-range transceiver which communicates at the second, higher data rate over a short range as taught by Lanzaro. The motivation for the modification is to have doing so in order to provide the required transaction data to the customer within the short range communication.

Tayama further teaches receiving, at the goods input device (i.e., second transceiver of the first communications device), a communication from any such similar goods indicator (i.e., transceiver) indicating that the intended purchase is available and indicating its cost (abstract; fig.1, fig.2; col.3, lines 41-67, col.4, lines 1-24, 52-61, col.6, lines 63-67, col.7, lines 1-15).

Tayama further teaches the goods input device (i.e., first communications device) communicating, upon receiving the communication from the supplier, with a payment facility using its first transceiver (abstract; fig.1, fig.2; col.3, lines 41-67, col.4, lines 1-24, 52-61, col.6, lines 63-67, col.7, lines 1-15).

Tayama further teaches that the goods input device (i.e., first communications device) placing an order for the intended purchase with the supplier using its second transceiver when payment authorisation is received from the payment facility (abstract; fig.1, fig.2; col.3, lines 41-67, col.4, lines 1-24, 52-61, col.6, lines 63-67, col.7, lines 1-15).

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tayama (U.S. Patent No. 6,625,580) and in view of Lanzaro et al. (U.S. Pub. No. 2002/0000470) and further in view of Kumar et al. (U.S. Pub. No. 2002/0143634).

Regarding claim 11, Tayama teaches the payment facility communicating the cost of the intended purchase to a cash register associated with the user of the goods input device (i.e., first

Art Unit: 2645

communications device) upon the goods input device communicating to the payment facility that the order has been made (col.3, lines 41-67, col.4, lines 1-24).

Tayama in view of Lanzaro fails to teach a banking facility associated with the user of the first communications device. Kumar teaches a banking facility associated with the user of the first communications device (fig.1; page 4, paragraphs 0036-0040). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tayama in view of Lanzaro to allow a banking facility associated with the user of the first communications device as taught by Kumar. The motivation for the modification is to have doing so in order to provide the required transaction amount to the customer.

8. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lanzaro et al. (U.S. Pub. No. 2002/0000470) and in view of Ramachandran et al. (U.S. Pub. No. 2001/0044747).

Regarding claim 12, Lanzaro teaches a portable data collection device (i.e., communications device) having a long range wireless communication circuit (i.e., first transceiver) for communication at a first data rate over a long range, a short range wireless communication circuit (i.e., second transceiver) for communication at a second, higher data rate over a short range (abstract; fig.1; page 2, paragraph 0023, page 3, paragraphs 0041, page 4, paragraphs 0043).

Lanzaro fails to teach a communications device having mp3 player, a memory, and a processor for controlling downloading of mp3 files to the memory, and for the transferring mp3 files from the memory to the mp3 player. Ramachandran teaches a mobile phone (i.e., communications device) having mp3 player, a storage device drive (i.e., memory), and a

Art Unit: 2645

processor for controlling downloading of mp3 files to the memory, and for the transferring mp3 files from the memory to the mp3 player (fig.2; page 4, paragraphs 0044, 0050, page 5, paragraph 0059). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro to allow a communications device having mp3 player, a memory, and a processor for controlling downloading of mp3 files to the memory, and for the transferring mp3 files from the memory to the mp3 player as taught by Ramachandran. The motivation for the modification is to have doing so in order to download the sound files and play it.

Regarding claim 13, Lanzaro fails to teach “the processor is programmed to control the second transceiver to request downloading of a given mp3 file from a similar communications device within the range of the second transceiver”. Ramachandran teaches that the processor is programmed to control the mobile phone (i.e., second transceiver) to request downloading of a given mp3 file from a similar communications device within the range of the second transceiver (fig.2; page 4, paragraphs 0044, 0050, page 5, paragraph 0059). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro to allow the processor being programmed to control the second transceiver to request downloading of a given mp3 file from a similar communications device within the range of the second transceiver as taught by Ramachandran. The motivation for the modification is to have doing so in order to provide the request to download the sound files.

Regarding claim 14, Lanzaro fails to teach “the processor is programmed to control the first transceiver to request permission from a service provider to download said given mp3 file from a similar communication device holding said mp3 file in its memory”. Ramachandran

Art Unit: 2645

teaches that the processor is programmed to control the mobile phone (i.e., first transceiver) transceiver to request permission from an ATM (i.e., service provider) to download the given mp3 file from a similar communication device holding the mp3 file in its storage device drive (i.e., memory) (fig.2; page 4, paragraphs 0044, 0050, page 5, paragraphs 0059-0061, page 6, paragraph 0062). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro to allow the processor being programmed to control the first transceiver to request permission from a service provider to download said given mp3 file from a similar communication device holding said mp3 file in its memory as taught by Ramachandran. The motivation for the modification is to have doing so in order to provide the permission for downloading the sound files.

Regarding claim 15, Lanzaro fails to teach "the processor is programmed to control the second transceiver to request downloading of said mp3 file once authorisation is received from the service provider". Ramachandran teaches that the processor is programmed to control the mobile phone (i.e., first transceiver) transceiver to request downloading of the mp3 file once authorisation is received from the ATM (i.e., service provider) (fig.2; page 4, paragraphs 0044, 0050, page 5, paragraphs 0059-0061, page 6, paragraph 0062). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lanzaro to allow the processor being programmed to control the first transceiver to request permission from a service provider to download said given mp3 file from a similar communication device holding said mp3 file in its memory as taught by Ramachandran. The motivation for the modification is to have doing so in order to provide the permission for the required transaction to the customer.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S Elahee whose telephone number is (703) 305-4822. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703) 305-4895. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and for After Final communications.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [shafiulalam.elahee@uspto.gov].

Art Unit: 2645

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.

Any response to this action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington, DC 20231

or faxed to:

(703) 308-5397(for formal communications intended for entry; please mark "EXPEDITED
PROCEDURE")

(703)**306-5406**(for informal or draft communications, such as proposed amendments to be
discussed at an interview; please label such communications "PROPOSED" or "DRAFT")

or hand-carried to:

Crystal Park Two

2121 Crystal Drive

Arlington, VA.

Sixth Floor (Receptionist)

Application/Control Number: 09/875,266

Page 15

Art Unit: 2645

MD SHAFIUL ALAM ELAHEE

April 20, 2004

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

A handwritten signature in black ink, appearing to read 'Fan Tsang', written in a cursive style.